# UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MISSOURI EASTERN DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
V.	)	No
<b>v.</b>	)	110.
HI-POINT CF380, .380 CALIBER PISTOL,	)	
SERIAL NO. P8116531,	)	
D 0 1	)	
Defendant.	)	

### **VERIFIED COMPLAINT FOR FORFEITURE IN REM**

COMES NOW, plaintiff, the United States of America, by and through its attorneys, Jeffrey B. Jensen, United States Attorney for the Eastern District of Missouri, and Kyle T. Bateman, Assistant United States Attorney, for said district, and for its Verified Complaint for Forfeiture *In Rem* states as follows:

### NATURE OF THE ACTION

- 1. This is a civil action *in rem* brought by the United States of America seeking forfeiture of all right, title and interest in the above-captioned defendant property pursuant to Title 18, United States Code, Section 924(d).
- The defendant property was seized by law enforcement on or about May 23, 2018, during the execution of a federal search warrant of the residence of Michael Barnett and Crystal Fisher.

# JURISDICTION AND VENUE

3. This Court has jurisdiction over this action pursuant to Title 28, United States Code, Sections 1345, 1355, and 1395.

4. Venue is proper pursuant to Title 28, United States Code, Section 1355(b)(1)(A) because the acts and omissions giving rise to forfeiture took place in the Eastern District of Missouri. Venue is also proper pursuant to Title 28, United States Code, Section 1395(b) because the defendant currency was seized in the Eastern District of Missouri.

### STATUTORY FRAMEWORK

- 5. Title 18, United States Code, Section 922(g)(1) makes it unlawful for a person who has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.
- 6. Title 18, United States Code, Section 922(g)(3) makes it unlawful for a person who is an unlawful user of or addicted to any controlled substance to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.
- 7. Title 18, United States Code, Section 922(d) makes it unlawful for any person to sell or otherwise dispose of any firearm or any ammunition to any person knowing or having reasonable cause to believe that such person is, *inter alia*, under indictment for, or has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year, or is an unlawful user of or addicted to any controlled substance.
- 8. Pursuant to Title 18, United States Code, Section 924(d), any firearm or ammunition involved in or used in any knowing violation of Title 18, United States Code, Section

922(g), or willful violation of Title 18, United States Code, Section 922(d), shall be subject to forfeiture.

### FACTS GIVING RISE TO FORFEITURE

- 9. Michael Barnett ("Barnett") is a convicted felon. Barnett is also an unlawful user of and is addicted to controlled substances.
- 10. Crystal Fisher ("Fisher") is a paramour of Barnett. Fisher is an unlawful user of and is addicted to controlled substances.
- 11. At all times relevant to this complaint, Fisher knew and had reasonable cause to believe that Barnett is a convicted felon and is an unlawful user of and is addicted to controlled substances.
- 12. Barnett and Fisher live together at a residence in St. Louis County, within the Eastern District of Missouri (hereinafter referred to as the "Residence").
- 13. On or about May 15 and 17, 2018, law enforcement conducted multiple controlled purchases of crack cocaine from Barnett at the Residence. At one of the controlled purchases, Barnett was observed to possess a firearm.
- 14. On or about May 23, 2018, at approximately 6:00 am, law enforcement personnel executed a federal search warrant of the Residence.
- 15. As law enforcement entered the Residence, officers observed Barnett lying asleep on the living room floor in front of a couch.
  - 16. Fisher and her two minor children were also observed inside the Residence.
- 17. Both Barnett and Fisher told law enforcement officers that there were no firearms or controlled substances in the Residence.

- 18. In a search of the Residence, officers discovered the defendant property under the couch in the living room next to where Barnett had been sleeping. The defendant property was fully loaded.
- 19. Officers also discovered on the living room floor in front of the couch a purse that contained marijuana.
- 20. Fisher told officers that the marijuana belonged to her and that she smokes marijuana with Barnett.
- 21. Fisher also told officers that she purchased the defendant property approximately six months prior and that Barnett had handled the defendant property on several occasions.
- 22. Barnett told officers that he had handled the defendant property on at least one occasion.
- 23. Barnett also told officers that he purchased the marijuana that was located inside the purse.

# <u>COUNT ONE – FORFEITURE</u> (18 U.S.C. § 924(d))

- 24. The United States incorporates by reference the allegations set forth in Paragraphs 1 to 23 above as if fully set forth herein.
- 25. Barnett is a convicted felon who knowingly possessed, both actually and constructively, the defendant property in violation of Title 18, United States Code, Section 922(g)(1).
- 26. As such, the defendant property is subject to forfeiture, pursuant to Title 18, United States Code, Section 924(d), as any firearm or ammunition involved in or used in any knowing violation of Title 18, United States Code, Section 922(g).

### <u>COUNT TWO – FORFEITURE</u> (18 U.S.C. § 924(d))

- 27. The United States incorporates by reference the allegations set forth in Paragraphs 1 to 23 above as if fully set forth herein.
- 28. Barnett is an unlawful user of and is addicted to controlled substances who knowingly possessed the defendant property in violation of Title 18, United States Code, Section 922(g)(3).
- 29. As such, the defendant property is subject to forfeiture, pursuant to Title 18, United States Code, Section 924(d), as any firearm or ammunition involved in or used in any knowing violation of Title 18, United States Code, Section 922(g).

# COUNT THREE – FORFEITURE (18 U.S.C. § 924(d))

- 30. The United States incorporates by reference the allegations set forth in Paragraphs 1 to 23 above as if fully set forth herein.
- 31. Fisher is an unlawful user of and is addicted to controlled substances who knowingly possessed the defendant property in violation of Title 18, United States Code, Section 922(g)(3).
- 32. As such, the defendant property is subject to forfeiture, pursuant to Title 18, United States Code, Section 924(d), as any firearm or ammunition involved in or used in any knowing violation of Title 18, United States Code, Section 922(g).

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<u>COUNT FOUR – FORFEITURE</u>

(18 U.S.C. § 924(d))

33. The United States incorporates by reference the allegations set forth in Paragraphs

1 to 23 above as if fully set forth herein.

34. Fisher provided the defendant property to Barnett knowing and having reasonable

cause to believe that Barnett has been convicted of a felony and is an unlawful user of or addicted

to a controlled substance in violation of Title 18, United States Code, Sections 922(d)(1) and (3).

35. As such, the defendant property is subject to forfeiture, pursuant to Title 18, United

States Code, Section 924(d), as any firearm or ammunition involved in or used in any willful

violation of Title 18, United States Code, Section 922(d).

WHEREFORE, Plaintiff prays that a Warrant for Arrest be issued for the defendant

property and the defendant property be condemned and forfeited to the United States of America,

in accordance with the provisions of law; and that the plaintiff be awarded its costs in this action,

and have such other relief as provided by law and the nature of the case may require.

Respectfully submitted,

JEFFREY B. JENSEN

United States Attorney

/s/ Kyle T. Bateman

KYLE T. BATEMAN, #996646DC Assistant United States Attorney

111 South Tenth Street, 20th Floor

St. Louis, Missouri 63102

### **VERIFICATION**

I, Special Agent Larry Stoddard, hereby verify and declare under penalty of perjury that I am a Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives, that I have read the foregoing Verified Complaint in rem and know the contents thereof, and that the matters contained in the Verified Complaint are true to my own knowledge, except that those matters herein stated to be alleged on information and belief and as to those matters I believe them to be true.

The sources of my knowledge and information and the grounds of my belief are the official files and records of the United States, information supplied to me by other law enforcement officers, as well as my investigation of this case, together with others, as a Special Agent of the Bureau of Alcohol, Tobacco, Firearms and Explosives.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on:

Larry Stoddard

Special Agent

Bureau of Alcohol, Tobacco, Firearms and Explosives

SJS 44 (Rev. 11/04)

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The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS	,	DEFENDANTS		
	of First Listed Plaintiff  KCEPT IN U.S. PLAINTIFF CASES)  Address, and Telephone Number)	NOTE: IN LAN	of First Listed Defendant (IN U.S. PLAINTIFF CASES OF D CONDEMNATION CASES, US INVOLVED.	
II. BASIS OF JURISD	ICTION (Place an "X" in One Box Only)	II. CITIZENSHIP OF P	PRINCIPAL PARTIES	(Place an "X" in One Box for Plaintiff
☐ 1 U.S. Government Plaintiff	☐ 3 Federal Question (U.S. Government Not a Party)		TF DEF  1 □ 1 Incorporated or Pr of Business In Thi	
☐ 2 U.S. Government Defendant	☐ 4 Diversity  (Indicate Citizenship of Parties in Item III)	Citizen of Another State	1 2	
IV. NATURE OF SUIT	(Place an "Y" in One Roy Only)	Citizen or Subject of a Foreign Country	J 3 G 3 Foreign Nation	□ 6 □ 6
CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<ul> <li>□ 110 Insurance</li> <li>□ 120 Marine</li> <li>□ 130 Miller Act</li> <li>□ 140 Negotiable Instrument</li> <li>□ 150 Recovery of Overpayment &amp; Enforcement of Judgment</li> <li>□ 151 Medicare Act</li> <li>□ 152 Recovery of Defaulted Student Loans (Excl. Veterans)</li> <li>□ 153 Recovery of Overpayment of Veteran's Benefits</li> <li>□ 160 Stockholders' Suits</li> <li>□ 190 Other Contract</li> <li>□ 195 Contract Product Liability</li> <li>□ 196 Franchise</li> <li>REAL PROPERTY</li> <li>□ 210 Land Condemnation</li> <li>□ 220 Foreclosure</li> <li>□ 230 Rent Lease &amp; Ejectment</li> <li>□ 245 Tort Product Liability</li> <li>□ 290 All Other Real Property</li> </ul>	PERSONAL INJURY  □ 310 Airplane □ 315 Airplane Product Liability □ 320 Assault, Libel & Slander □ 330 Federal Employers' Liability □ 340 Marine □ 345 Marine Product Liability □ 345 Marine Product Liability □ 355 Motor Vehicle □ 700 Other Personal Injury □ 380 Other Personal Injury □ 385 Property Damage Product Liability □ 385 Property Damage Sentence Product Liability □ 385 Property Damage Product Liability □ 380 Other Personal □ 380 Othe	☐ 690 Other  LABOR ☐ 710 Fair Labor Standards Act ☐ 720 Labor/Mgmt. Relations ☐ 730 Labor/Mgmt.Reporting & Disclosure Act ☐ 740 Railway Labor Act ☐ 790 Other Labor Litigation ☐ 791 Empl. Ret. Inc. Security Act	☐ 422 Appeal 28 USC 158 ☐ 423 Withdrawal	□ 400 State Reapportionment □ 410 Antitrust □ 430 Banks and Banking □ 450 Commerce □ 460 Deportation □ 470 Racketeer Influenced and Corrupt Organizations □ 480 Consumer Credit □ 490 Cable/Sat TV □ 810 Selective Service □ 850 Securities/Commodities/ Exchange □ 875 Customer Challenge 12 USC 3410 □ 890 Other Statutory Actions □ 891 Agricultural Acts □ 892 Economic Stabilization Act □ 893 Environmental Matters □ 894 Energy Allocation Act □ 895 Freedom of Information Act □ 900Appeal of Fee Determination Under Equal Access to Justice □ 950 Constitutionality of State Statutes
□1 Original □2 R	an "X" in One Box Only) emoved from	Reinstated or Reopened anoth (speci		
VI. CAUSE OF ACTIO	•	Thing (Do not the jurisdiction	ar statutes unless diversity).	
VII. REQUESTED IN COMPLAINT:	CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23	DEMAND \$	CHECK YES only JURY DEMAND:	if demanded in complaint:
VIII. RELATED CASI IF ANY	E(S) (See instructions): JUDGE		DOCKET NUMBER	
DATE	SIGNATURE OF ATT	ORNEY OF RECORD		
FOR OFFICE USE ONLY  RECEIPT # A	MOUNT APPLYING IFP	JUDGE	MAG. JUI	)GE
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### INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

### Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- **II. Jurisdiction**. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

- III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

- VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity**. Example: U.S. Civil Statute: 47 USC 553
  Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS 44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

# UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MISSOURI

plaintiff, v. , defendant.	) ) ) Case No. ) )
ORIGINAL	FILING FORM
THIS FORM MUST BE COMPLETED AN INITIATING A NEW CASE.	ND VERIFIED BY THE FILING PARTY WHEN
THIS CAUSE, OR A SUBSTANTIALLY	Z EQUIVALENT COMPLAINT, WAS
PREVIOUSLY FILED IN THIS COURT AS	CASE NUMBER
AND ASSIGNED TO THE HONORABLE J	UDGE
NEITHER THIS CAUSE, NOR A SUBS'	TANTIALLY EQUIVALENT COMPLAINT,
PREVIOUSLY HAS BEEN FILED IN THIS	COURT, AND THEREFORE MAY BE
OPENED AS AN ORIGINAL PROCEEDING	G.
The undersigned affirms that the informati	ion provided above is true and correct.
Date:	
	Signature of Filing Party

# UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MISSOURI EASTERN DIVISION

UNITED STATES OF AMERICA,	)
Plaintiff,	) )
v.	No.
HI-POINT CF380, .380 CALIBER PISTOL, SERIAL NO. P8116531,	) )
Defendant.	, ) )

### WARRANT FOR ARREST OF PROPERTY

TO: THE UNITED STATES MARSHAL AND/OR ANY OTHER DULY AUTHORIZED LAW ENFORCEMENT OFFICER FOR THE EASTERN DISTRICT OF MISSOURI

Whereas, on October 5, 2018, the United States of America filed a Verified Complaint for Civil Forfeiture in the United States District Court for the Eastern District of Missouri, against the above-named defendant property, alleging that said property is subject to seizure and civil forfeiture to the United States for the reasons mentioned in the complaint; and

WHEREAS, the defendant property is currently in the possession, custody, or control of the United States; and

WHEREAS, in these circumstances, Supplemental Rule G(3)(b)(i) directs the Clerk of the Court to issue an arrest warrant in rem for the arrest of the defendant property; and

WHEREAS, Supplemental Rule G(3)(c) provides that the warrant of arrest in rem must be delivered to a person or organization authorized to execute it;

NOW THEREFORE, you are hereby commanded to arrest the above-named defendant property by serving a copy of this warrant on the custodian in whose possession, custody, or

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control the property is presently found, and to use whatever means may be appropriate to protect and maintain it in your custody until further order of this Court,

YOU ARE FURTHER COMMANDED, promptly after execution of this process, to file the same in this Court with your return thereon, identifying the individuals upon whom copies were served and the manner employed.

GREGORY J. LINHARES, CLERK United States District Court

By:			
Ū	Deputy Clerk		
Date:	:		